

# **EXHIBIT 1**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: GENERIC PHARMACEUTICALS  
PRICING ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO: *State  
Attorneys General Litigation*

MDL NO.  
2724 16-  
MD-2724

HON. CYNTHIA M. RUFÉ

Civil Action  
No.  
17-3768  
19-2407

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**PLAINTIFF STATE OF MARYLAND'S ANSWERS TO QUESTIONS INFORMALLY  
RECOMMENDED BY SPECIAL MASTER MARION FOR CONNECTICUT**

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Plaintiff State of Maryland ("Maryland"), by counsel, hereby voluntarily responds to certain sections of the Special Master's Informal Report and Recommendation to the State of Connecticut dated June 1, 2020.<sup>1</sup> These responses further supplement the responses and objections of Maryland, as previously submitted on December 2, 2019 (in response to Defendants' First Set of Interrogatories Propounded to the Plaintiff States dated October 31, 2019 served on behalf of the Plaintiff States), and the First Supplement served by Maryland on January 30, 2020.

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<sup>1</sup> Pursuant to an informal agreement with Defendants dated August 21, 2020, the State of Maryland agreed to disclose sources it intends to rely on to support its remedies as set forth in the Special Masters Report and Recommendation.

These responses are submitted as part of fact discovery. Maryland reserves the right to supplement these responses. These responses do not replace expert discovery which will proceed according to the schedule ordered by the Court. Experts may request additional documents and data not collected during fact discovery to be used for reports and analyses that will be prepared during expert discovery. Maryland will rely on experts' reports and expert analyses to support and prove its claims for remedies.

Without waiving, and subject to, the previously asserted General and Specific Objections to Defendants' discovery requests and interrogatories, the State of Maryland responds to the agreed upon questions as follows:

1. *On or before November 16, 2020, or such Court-ordered or mutually agreed later date as is applicable to the State of Connecticut, the State of Maryland will inform Defendants of its theories of damages and the nature of any remedies it will seek at trial.*

Maryland is seeking the following remedies:

- A. Through its *parens patriae* authority, Maryland seeks damages on behalf of persons residing in Maryland. This is Maryland's sole compensatory claim.
- B. Maryland seeks civil penalties pursuant to the Maryland Antitrust Act, Md. Com. Law Code Ann. §11-209(a)(4). For purposes of this claim, each day the violation continues is a separate violation, and each violation is subject to not more than a \$10,000 penalty. This remedy is a *penalty*, to serve generally as punishment and deterrence, and is not a compensatory claim.
- C. Maryland seeks disgorgement of all revenues, profits and gains achieved in whole or in part through the anti-competitive conduct of the Defendants which are the subject of the Complaints. This is an equitable remedy, based on the public policy embodied in the statute that the violator not benefit from unlawful conduct or reap the ill-gotten gains from its violation. It is not a compensatory claim.

1. Maryland will seek reasonable attorneys' fees pursuant to Md. Com. Law Code Ann. §11-209(b)(5), at such time as the case concludes should Maryland prevail in the litigation.
2. *On or before November 16, 2020, or such Court-ordered or mutually agreed later date as is applicable to the State of Connecticut, the State of Maryland will identify the nature and source of all known documents and data it will rely upon to prove its purported remedies.*

The nature and source of the documents and data known to Maryland at this time are identified below. The materials provided by these sources may be relied upon to support the theories of recovery listed above except for attorneys' fees and costs. As expert discovery has yet to commence Maryland is unable to ascertain with certainty the precise documents that will be relied upon by its experts to support its theories of recovery. Additionally, Defendants have not yet filed Answers and Maryland may need to identify additional documents and data to rebut any defenses put forth by the Defendants. Maryland identified the nature and sources of documents listed below that it believes its experts may consult in preparing their analyses and reports. Maryland reserves the right to supplement this list as additional information is identified and collected.

Documents for attorneys' fees and costs will be provided at the appropriate time should Maryland prevail in the litigation.

Maryland may rely on the following:

The nature of the documents and data known to Maryland are structured data and unstructured documents, received in discovery from:

(a) the Defendants and Plaintiffs in these actions,

(b) non-parties who have been served Rule 45 subpoenas in these actions (by Plaintiffs and by Defendants) including but not limited to structured data relating to the purchase and sales of Drugs at Issue in the MDL and documents, including emails with the defendants, relating to the contracts, invoices, trade association meeting minutes and agendas, member lists, and summaries and analyses of the generic pharmaceutical drug industry; (Exhibit A)

(c) Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP), which produced structured data in response to an open records request under Minnesota state law and produced additional unstructured documents;

(d) state Medicaid agencies, which voluntarily produced state utilization data as facilitated by Plaintiff States, and

(e) IQVIA (formerly Intercontinental Medical Statistics “IMS”), in the form of structured data and

(f) Analysource, in the form of purchased structured data.

3. *On or before March 1, 2021, the State of Maryland will produce any and all aforementioned documents and data within its possession, custody, or control*

The State of Maryland will supplement this response with references to documents to be produced, per the agreement of counsel, on or before March 1, 2021.

Dated: November 16, 2020

STATE OF MARYLAND

BRIAN E. FROSH

ATTORNEY GENERAL

BY: 

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Insert Exhibit A  
Rule 45 Subpoena Recipients in the MDL  
(up to date copy from CT)

**CERTIFICATE OF SERVICE**

I hereby certify that on November 16, 2020, I caused a true and correct copy of the foregoing Plaintiff State of Maryland's Responses in Accordance with the Special Master's Report and Recommendation to be served via email upon the following liaison and additional counsel of record:

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By: s/ John R. Tennis  
John R. Tennis  
Assistant Attorney General  
Chief, Antitrust Division

## EXHIBIT A

<b>Rule 45 Subpoena Recipients in the MDL, current as of November 12, 2020</b>
Aetna Pharmacy Management Services LLC
Allergan
American Pharmacy Network Solutions, LLC
AmeriSource Bergen
Anda, Inc.
Araya, Inc.
Arete Pharmacy Network, LLC
Association for Accessible Medicine f/k/a GPhA
Benecard Services, Inc.
Capital Wholesale Drug Company
Cardinal Health, Inc.
ClarusONE Sourcing Services, LLP
Community Independent Pharmacy Network
Curascript
CVS Caremark
CVS Health
CVS Pharmacy, Inc.
Dakota Drug, Inc.
DMS Pharmaceutical Group, Inc.
Droguería Betances, Inc.
EconDisc Contracting Solutions, LLC
Efficient Collaborative Retail Marketing Company, LLC
EnvisionRX Options
EPIC Pharmacy Network, Inc.
Express Scripts, Inc.
H.D. Smith, LLC
Healthcare Distribution Alliance
HospitalityRX
Humana, Inc.
Intalere, Inc.
JM Smith Corporation
KeySource Acquisition LLC
Louisiana Wholesale Drugs Co., Inc.
McKesson Corporation
Medimpact Healthcare Systems, Inc.
Miami-Luken, Inc.
MMCAP
Morris & Dickson Co., LLC



National Association of Chain Drug Stores, Inc.
National Community Pharmacists Association
National Medicaid Pooling Initiative/Magellan Medicaid Administration
Navitus Health Solutions
North Carolina Mutual Wholesale Drug Company
Northeast Pharmacy Service Corp.
Optisource LLC
OptumRx
Pharmacy Buying Association, Inc. d/b/a TriNet
Pharmacy Providers of Oklahoma d/b/a RxSelect
Premier Healthcare Alliance
Prescription Supply, Inc.
Prime Therapeutics LLC
ProAct, Inc.
Provider Synergies, LLC (Top Dollar Program (TOP\$))
Publix Supermarkets Incorporated
Quality Care Products, LLC
Real Value Products Corporation
Red Oak Sourcing, LLC
Rite Aid Corporation
Script Care, Ltd.
SS&C Health Pharmacy Solutions
Target Corporation
Value Drug
Vizient
Walgreens Boots Alliance
Walmart
Wholesale Alliance, LLC d/b/a Pharmacy First, & Wholesale Alliance, LLC d/b/a Third Party Station
YS Marketing, Inc. d/b/a Numed Pharma